

JUL 08 2022

JULIA C. DUBLEY, CLERK
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In the United States District Court
for the Western District of Virginia
Roanoke Division

7:22-cv-00390

Jacob Shouse #1101441,
Plaintiff,

versus Defendant

v.

Harold Clarke, David Robinson, Denise Mahone, Ross Dublin,
Eric Madson, Amy Lovell, Halsey Shepard, M. Moyle,
D. Davis, J. Carico, Mr. Coughran, Ms. Townsend,
Everett McDuffie, S. Light, Joseph Stallard,
Ms. Church, Mr. McCreary
Defendants,

Civil Action Complaint

Parties

1) Plaintiff, Jacob Shouse #1101441, who is the pro se
plaintiff in this case, currently confined at Virginia's
Superior Wallens Ridge State Prison (WRSP)

2) Defendant Clarke is the Director of the Virginia
Department of Corrections (Vadoc), whose official functions
and responsibilities within and as an agent of the Vadoc
are characterized by his official title of office and are
set out under Va. Code Title 53.1. He is being sued in
his official and individual capacities

3) Defendant Robinson is the Vice Chief of Corrections operations, he is being sued in his official and individual capacities

4) Defendant Malone is the Vice Chief of Mental Health Services, she is being sued in her official and individual capacities

5) Defendant Dwyer is the Vice Americans with Disabilities Act (ADA) supervisor, she is being sued in her official and individual capacities

6) Defendant Madson is the Vice Psychology Associates Supervisor of Central Classification Services (Psych Assoc. Sr. CCS), he is being sued in his official and individual capacities,

7) Defendant Lovell is the Vice Serious Mental Illness Coordinator, she is being sued in her official and individual capacities

8) Defendant Sharples is a Vice Regional Mental Health Supervisor/associate, she is being sued in her official and individual capacities

9) Defendant Mayse is a Vice Regional Mental Health Clinical supervisor, he is being sued in his official and individual capacities

10) Defendant Davis is the Vice Warden at WSP and present custodian of plaintiff, he is being sued in his official and individual capacities

11) Defendant Carls is the Under Chief of Housing and Programs at WRSP, he is being sued in his official and individual capacities

12) Defendant Cunningham is the Under Operations Manager / ADA Coordinator at WRSP, he is being sued in his official and individual capacities

13) Defendant Townsend is the Under Director of Housing at WRSP, she is being sued in her official and individual capacities

14) Defendant McAffie is the Under Psychologist at WRSP, he is being sued in his official and individual capacities

15) Defendant Light is the Under Psychology Associate Supervisor at WRSP, she is being sued in her official and individual capacities

16) Defendant Stollard is the Under Unit Manager of A-building at WRSP housing plaintiff, he is being sued in his official and individual capacities

17) Defendant Church is the Under Program Assignment Reviewer and Chief Counselor at WRSP, she is being sued in her official and individual capacities

18) Defendant McRay is A Under Building (A) Lieutenant at WRSP housing plaintiff, he is being sued in his official and individual capacities

19) All Defendants here in have and continue to act under color of state law

Jurisdiction

20) This court has jurisdiction over plaintiff's claims under 28 USC § 1343

Venue

21) Venue lies in this court under 28 USC § 1391

Preliminary Statement

Charge and Introduction

22) This is A civil rights action filed by Jacob Shaw, ~~et al~~, ~~pro se~~ plaintiff, for relief under Federal Disability Statutes (29 USC § 794, Section 504 of the Rehabilitation Act); and (42 U.S.C. § 12101 et seq. Americans with Disabilities Act) seeking Declaratory and injunctive relief

23) Plaintiff further brings separate claims for damages under 42 U.S.C. § 1983 rights and Fourteenth Amendment Violations of the U.S. Constitution.

24) Plaintiff has exhausted his administrative remedies to the extent ~~possible~~ ^{Prison officials} have made available to him under this PLRA.

Statement of Facts

25) Attached hereto are ~~the~~ ^{all} exhibits plaintiff enters as part of this "Facts" section to demonstrate facts to set forth his claims... "not" merely to support his exhaustion of admin. remedies. These ~~are~~ ^{all} exhibits highlights certain defendant's personal involvement but not limited thereto.

Statement of Facts (continued)

24.) In regards to this complaint relevant VADe policies are (Operating procedures) OP 803.1, Managing offenders with Diabetes and OP 841.2, Work programs, OP 830.3, Goodtime Awards and OP 730.3, Mental Health Levels of Services, but not limited thereto.

25.) Plaintiff has been diagnosed as having several qualified disabilities of physical and mental impairment that substantially limits one or more major life activities, defendants refuse to put water/storage on his cell door.

26.) Plaintiff is legally blind, has Monovision, his left eye is (legally blind) with a visual acuity of 20/400 (the clinical determination of 20/200 is legal blindness). Plaintiff's right eye is "completely" blind diagnosed with Optic Atrophy, Retinal detachment and cataracts. see ~~Exhibit 2~~ a/b

27.) Plaintiff also has a digestive disorder and requires an Ostomy/colostomy prosthesis as a result from Twenty One (21) abdominal surgeries for suicide attempts for ingesting metal foreign objects since 2014.

28.) Plaintiff is also diagnosed with several psychological disorders to include, but not limited to: Post Traumatic Stress Disorder, Depression, Anxiety and Personality Disorders with an extensive history of suicidality and serious self-injury requiring one hundred-twenty six (126) emergency hospital admissions at 26 different hospitals across Virginia since 2014.

29.) Plaintiff has filed a "Request for reasonable accommodations" multiple times: Nov. 23, 2020, April 8, 2021, May 12, 2021 (attached) exhibit 6-8.

30.) On May 12, 2021, two ADA coordinators Mr. Santos met with medical authority, reviewed plaintiff's medical charts, agreeing to grant plaintiff's accommodations request, but none were ever placed except to remove two light bulbs from a five (5) bulb fixture in cell - no other requested VADe pre-set/approved reasonable accommodations (for visually impaired persons) have been met to current day. see exhibit 4

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33.) Plaintiff filed numerous grievances on this issue and spoke
nervously to defendants Warden Davis, ADA Coordinator Coughlin "due
to face" complaining of their refusal and was repeatedly told "we
believe you can see just fine" in grievance were answered by
WASP grievance office as "refusing intake" along with a reason of
"request for services", stating ADA accommodations will be met and
provided" on 8-12-21 see exhibit 5 (and how they again refused and retracted appeal sub 7)

34.) Plaintiff further spoke with defendant Coughlin on 9-28-21
complaining again of their blatant discrimination and indifference
and he stated Plaintiff needs to see eye doctor because "no requests
for accommodations has been received". This was said with a grin
sarcastically, since he knows Plaintiff filed several. see exhibit 3 and 7

35.) Plaintiff continued to meet with the medical provider, Dr.
Mullins and on (?) unknown specific date in February and again in
March and May 2022 the doctor ordered for "all ADA accommodations
pre approved by Vadee for the visually impaired to be provided." Also in June

36.) Plaintiff had appointment with optometrist in April - May 2022
and noted visual acuity in left eye to have been 20/400 since 2019 evaluation at Pocatensis cor. etc. again seen July 1 2022

37.) Plaintiff has requested from all defendants to coordinate communication
with Vadee Headquarters ADA Supervisor (from Rose Dushin) as Plaintiff has
written to her numerous times but receives no responses, however, this was
repeatedly denied too. Had family/friends call him too and email defendant Dushin

38.) On Feb. 25, 2022 A letter/email from "Rights Behind Bars" Attorney, Owen
Nunn, was sent to defendant Davis and other Vadee Defendants laying out the
concerns of the complaints herein this action (attached) ex. 1 a/b

39.) Plaintiff was denied appropriate housing (i.e., SAM unit/pod) for inmates
with mental health/medical disabilities from Feb. 2021 through March 2022
until he was assaulted (attempted murder/strangulation) by A BLOODs Gang
member on Jan 21, 2022, despite "requests" to be appropriately housed or
transferred and grievances and inquiries from Rights Behind Bars Attorneys see ex. 1/17
ab.

40.) Plaintiff has also been discriminated against by defendants Stallard and
McKay by being denied work programs (job assignment) despite numerous
attempts and application submissions, being told by these defendants that
Plaintiff will not be allowed to have any work assignments while housed in their
building because they "don't like" the plaintiff and "do not trust" his "type" and
because he files "too many grievances".

41.) Plaintiff filed grievances explaining that defendants only allow three (3)
workers to perform all work duties (e.g. fitches, brooms, shoveling, sanitation
monitor, recreation, etc.) when Vadee policy only allows one task/duty to be
assigned to each worker with more than two (2) allotted positions available.
Plaintiff was forced to drop complaints or a knife would be found in his cell by

the way

defendants responded verbally to plaintiff it was because "they're the only three inmates they like and had better withdrawn complaints or else"

42.) Plaintiff gained that (and complained verbally) OP 841.2, I, sec. K, #1 states "Participation in work programs is a factor in an inmate's evaluation for goodtime credits and a requirement by Va. Regulations Code of Va. § 53.1-202.3; § 53.1-32.1" and that his criminal review of his goodtime evaluation in Nov 2021 set his must meet treatment objectives at "obtain/maintain institutional employment" or it will affect his goodtime and push back his release date as it previously did in 2021 and will in 2022 November again. Plaintiff told "withdrawal or a knife would be used in his cell"

43.) Defendants all at WRSP treat work programs as a "privilege" subject to "discriminatory favoritism" for assignments, rather than under policy and Code of Va Statutes mandatory requirement as part of an inmate's "re-entry" rehabilitation efforts.

44.) Defendant Townsend reportedly refuses to respond to any of the request to meet with plaintiff and tells him she doesn't have time for him when he sees her passing by.

45.) Defendant Townsend refuses to allow plaintiff adequate colostomy supplies ordered by the Physician Dr. Mullins; reportedly telling plaintiff he will only receive the amount she provides her nurses to give him forcing him to re-use soiled bags and wipers. She refuses to adhere to ADA reasonable accommodation orders interfering with Dr. Mullins recommendations. She refuses to post ADA notices on plaintiff's door per policy

46.) Plaintiff has gained and verbally requested adequate mental health treatment for severe long standing suicidality and PTSD, seeking and prescribed weekly therapy sessions for at least one hour performed with a "licensed professional counselor" ~~being to be equal to get this~~ recommended by WRSP Psychiatrist ~~Dr. McDuff~~ McDuff; however, WRSP does not employ such skilled staff, merely unlicensed "CMHP-Adult", (qualified mental health professionals) that are not recognized by Va Dept of Health Professions as a "licensed therapist"; nor does WRSP allow for individual therapy sessions, ~~Plaintiff reportedly ask defendants for~~ A transfer to facility with treatment options

47.) WRSP only allows "evaluation/risk assessments" of self-harm or potential suicide and, then, "precautionary" measures (i.e., stripped cell) as the full extent of their "outpatient" services, they have no provision for mental health "treatment", except psychotropic prescribed medications.

48.) Plaintiff has spoken with defendant light numerous times to initiate a mental health referral transfer to Greensville Mental Health Unit for residential services and has been denied repeatedly by her "higher ups" (these defendants named in supervisory positions) she says they would have her job ~~and~~ Plaintiff then asked Defendant Townsend for ADA transfer to severely impaired unit at GCC, she refused.

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49.) WRSP is A security level five (SL-5) "supermax" facility housing inmates with the most serious behavioral and management problems (e.g., violent offenders) maintaining the highest level of security by imposing many restrictions, e.g., limited movement, attack K-9 dogs, firearms, little contact between inmates and staff, little recreation - typical routine is A maximum of three (3) hours out-of-cell activity - although VaDoc policy, see Ex. 12a-f for SL-5 facility is A "minimum" of seven (7) hours out of cell time daily

50.) Plaintiff has exhaustively complained that the harsh restrictions and severe isolation and violent conditions at WRSP has exacerbated his mental illness and proximately causing his suicidality and indeed has moved him to attempt suicide at WRSP several times in the past two years &

51.) Plaintiff previously spent over A decade at WRSP's sister facility Ridgely State Prison (RSP) in long-term solitary confinement "without" any history of violence or assaultive behavior due solely to his schizophrenia symptoms of PTSD and Depression from such extremes of isolation and sensory overload/deprivation and psychological torture

52.) Plaintiff currently meets all VaDoc criteria for an INTERIM REVIEW of his security level which if completed would score him at A level 3 as he hasn't had any institutional disciplinary offenses for more than A year, has completed all required/available programs, however defendant's Refuse to make available an interim review to accommodate his mental and medical needs at A lower security level facility as VaDoc policy provides

53.) WRSP cannot accommodate plaintiff's mental health treatment needs and As A result will continue to exacerbate his mental illness and lead to A direct cause of his "imminent suicide" if not treated adequately and properly

54.) Plaintiff has repeatedly expounded on that fact to defendants and they do not care and has told him repeatedly that "it is your choice"

55.) Plaintiff has expressed to defendants their legal and custodial responsibilities to his mental and physical well-being, they respond that "you are responsible for your actions, not us, you are A manipulator"

56.) Defendants blatantly disregarded recommendations by WRSP psychiatrist for treatment so as to prevent plaintiff's future attempted suicide/death

57.) WRSP Assistant warden, F. Russell, told plaintiff he is "not A security level 5 inmate", that he "is more like A level 3" and "wants to be there, not at WRSP", in A face to face meeting Jan, 26, 2022

58.) Defendant McEliff ~~responded~~, when asked by plaintiff to recommend A transfer to GRINVILLE mental health unit for appropriate treatment such as professional therapy, etc, responded to plaintiff that he'd have to talk to "some people" (indicating defendants in supervisory positions) first because if he wrote that it would "piss some people off" that he'd "backed them into A corner to transfer" the plaintiff

59) Defendant Davis, when plaintiff asked him about ~~the~~ policy providing for a interim review to transfer him so he could get adequate M.H. Treatment, in light of the email and hand copy letter to defendant Davis from Rights Behind Bars Attorney Orin Niman, Defendant stated "I don't answer to lawyers... he cd it to headquarters (indicating defendant Malone and Madson) and they said the same thing" see ex. 10/15

60) Exhibit 21 a-d 45 a letter plaintiff wrote to defendant Davis and mailed copies to Defendants Clarke, Robinson, Malone, Dublin, Madson, and hand delivered a copy to defendant Lewis, Light and McDuffie. In essence this was a suicide notice as plaintiff clearly expressed his imminent suicide intent. Each defendant responded similarly by telling plaintiff if he kills himself it will not hurt anyone but him, it is his choice.

61) Defendant McDuffie told plaintiff that defendant Malone has "been putting their ducks in order" in the event he kills himself. He has expressed to plaintiff on several occasions that how each defendant "fools" about the plaintiff "precludes necessary treatment and placement at Greensville Mental Health Unit" Plaintiff requested he swear an affidavit to that and he said he'd "answer questions that lawyers ask"

62) That discussion was in regard to law clearly established in a case he was a defendant with also defendant Clarke and Robinson, i.e. *DiPardo v. Clarke*, 884 F.3d 481

63) Defendant Madson has written to plaintiff several times affirming his position as the Senior Psych. Assoc. of Central Classification has full authority in plaintiff's need

for ADA reasonable accommodations of constitutionally protected rights to equal treatment and providing adequate mental health treatment; however, he acknowledges his Authority, but espouses a secondary role to not challenge state defendant's decision because he sees this MHU placement as an "opportunity" rather than a mental health "treatment regimen" or "required care" per Va doc policy, stat and federal laws. He blatantly points out repeatedly that misbehavior (regardless if precipitated by mental illness as ~~she's~~ referring to plaintiff's self-injuries/surgings/cutting/swallowing behaviors) will not be tolerated and precludes any placement/transfer to a mental health unit for treatment.

(64) Defendant Robinson and Lovell have met with plaintiff on one or more occasions (questionable dates but approx. ones in Nov-Dec 2021 by ASmate telcom with defendant Davis and Robinson together; and 3-4 occasions between Feb-2021 and present day with defendant Lovell) specifically on 3-10-21 plaintiff spoke face to face with defendants Davis ^{carried} and Lovell complaining of all claims raised herein, even telling them he was suicidal and going to kill himself at WSP due to inadequate treatment and harsh conditions of lockdown similar to solitary at RSP that has exacerbated his mental illnesses and caused his PTSD to worsen. They laughed at plaintiff and told him he's tired killing himself hundreds of times and it ain't worked, that he is the "boy that cried wolf".

(65) Defendant Clark met with plaintiff face to face

during his trip to WESP from Richmond headquarters (approx 4/22) plaintiff briefly explained to him about all claims herein expanding on the subject of ADA and the necessary and urgent need for adequate treatment before plaintiff ends up committing suicide, defendant Clarke acknowledged that "it's true, the surgeons at MCV (hospital) has said you can't have another surgery or it will kill you"; plaintiff requested he do something to ensure he be transferred back to GCC-MCV for treatment and defendant Clarke pointed at defendant Davis and suggested that "there's your wizard, talk to him".

(66) Plaintiff asked if he remembers the "Depaula" case and if it set a ~~precedent~~ legally binding precedent in Va. to provide adequate mental healthcare and he told plaintiff "We won that case, you wouldn't be here if you'd stop swallowing stuff you know will kill you"

(67) Plaintiff further asked defendant Clarke about the "jpay" email he and defendant Robinson sent to Vador entire population concerning new govtwide legislation going into effect July 1 2022, specifically code of Va § 53.1-202.3 and § 53.1-32.1 that authorizes op 841.2 (1)(K)(i), (participation in work programs as key factor in inmate govtwide awards), plaintiff told him he's being discriminated against by defendants Stalled, Church and McGary explaining the job duties laid out to (herein paragraphs 40-44) defendants to no avail, plaintiff

voiced concern that he was hired for A job in C-Bldg but defendant Church refused to acknowledge the application and denied plaintiff the position and pay for 30 days of work imposed by C-Bldg supervisors [see exhibits 15(a-e)] Defendant Church rudely ignored any further dialogue with plaintiff and walked off.

68) defendant Shepard's employment other than her official role as A unit regional supervisor is written in detail in facts set out in exhibits 19(a-e)

69) defendant Moye assumed and responded ignorantly in A deliberately indifferent disregard for truth as he exercised extreme prejudice in his biased assertion that his subordinate employee defendant Shepard was in no way inappropriate and plaintiff's complaints were completely without merit as he wrote on exhibits 19(b-e). He gave no consideration in plaintiff's complaints dealing honestly with defendant Shepard in her word over plaintiff's and nothing else.

70) defendant Moye has the official responsibility to ensure all persons in the western region afford/provide all inmates with mental illness with adequate treatment as he's the mental health clinical supervisor.

71) on 7/1/22 WESP optometrist saw and evaluated plaintiff's eye condition asserting he has A neurological degenerate disorder in his only working eye and A minute without vision acuity of 20/400, double the legally blind!

Baseline of 20/200, again attempting to get defendant Townsend to help plaintiff reasonable accommodation in conjunction with defendant Caughron.

72) Other inmates with partial or legal blindness most are housed at Gastonville Correctional Center in a specialized unit designed for visually and hearing impaired and all visually impaired inmates are entitled to specific prescribed reasonable accommodation that aid in their functioning of daily living and aid in not exacerbating their disability without it, to name a few tinted windows in cell, removal of bulbs, A larger TV with a remote to control color/contrast/brightness and other visual aid functions, A watch/clock that "speaks" the time, magnification devices for TV/books etc, personal inmate aid for mobility/reading/writing assistance, A larger ipod music/meal device, listening devices, special transitional lenses for glasses, etc and not limited thereof, all are already Verba approved

73) Plaintiff is receiving none of these, simply 1 bulb removed out of 5, still has 4 bulbs that remain on 24 hrs A day merely dim at night yet still bright enough to read/write by. Defendant Davis and Caughron tells plaintiff he is getting all he need in accommodations and refuse to coordinate A telecom meeting with ADA supervisor defendant Durbin.

74) Defendants Robinson, Malone and Modsen and Davis have personally hindered plaintiff placement of being housed

at GCC visually impaired unit or MHU also next door
there, despite plaintiff consistent request.

75) All defendants in various ways have not acted
to correct any of the unconstitutional wrongs nor move
to provide for plaintiffs' rights under federal statutory
Acts as laid out herein.

Claims for Relief

The failure of each defendant playing a significant role in their individual/personal action or inaction and in their official responsibilities to provide for the plaintiff's rights under 29 USC § 794, section 504 of the Rehabilitation Act and 42 USC § 12101 et seq of the Americans with Disabilities Act of reasonable accommodations, his health, safety and equal protection against discrimination entitles the plaintiff to relief; and

The actions and inactions of each defendant for these personal roles and failures in the official duties in forcing the plaintiff to work without pay (defendant church) and forcing him to raise unnecessary colostomy bags, denying reasonable accommodations and doctors orders (defendant Tennessee) and adequate mental health treatment being denied knowing the plaintiff's extensive history of mental illness (defendants Clark, Robinson, Mahan, Durbin, Madson, Littel, Shepard, Meyer, Doves, Carico, Coughlan, McEliff and Light) constitutes deliberate indifference to a serious medical need and cruel and unusual punishment; and violates the 8th amendment of the US Constitution the failure of defendants McCoy, Stallord and Church to provide for state created liberty interest in loss of good time by not providing work program participation violates the 14th amendment of the US Const. and against deprivation of the Rehabilitation Act and ADA. All defendants fail to curb these federal Const/statute-violations

Relief Requested

WHEREFORE, plaintiff request that this court grant the following relief:

A. Issue A declaratory judgment stating that:

1.) The actions and/or restrictions herein by the defendants violated and continue to violate the plaintiff's rights under state/federal constitutions and statutes

B. Issue an injunction ordering defendants or their agents to:

1.) conduct an interim ~~security~~ ^{security/guard} review ~~backiss~~ ^{backiss} by the plaintiff to ~~lower~~ ^{restore} an appropriate lower security level and restore ~~positive~~ ^{positive} ~~lost~~ ^{lost}

2.) complete A mental health transfer referral for immediate appropriate placement/housing at Greensville Mental Health Unit for long-term residential treatment pursuant to Va Code §8.01-682.1(B)

3.) comply and provide all request for reasonable accommodations approved by the Va doc ADA coordinator at Headquarters for the qualified disabilities of plaintiff and provide for the plaintiff A telecommunication appointment with the ~~ADA~~ ADA coordinator supervisor there immediately to ensure continued accommodations

C. Award compensatory and punitive damages in the following amounts:

1.) \$1000 jointly and severally against defendants for the physical and emotional injuries sustained from plaintiff's suicide attempts and defendants' actions and restrictions laid out herein this complaint and for the punishment, including deprivation of liberty and privacy and cruel and unusual punishment and "compassion harm"

D. ~~§~~ Allow plaintiff to proceed in forma pauperis, (see motion attached) pursuant to 28 USC §1915

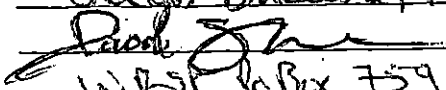
E. Grant such other relief as it may appear that plaintiff is entitled

Plaintiff swears under penalty of perjury, pursuant to Va Code §8.01-280, that the foregoing is true and correct

July 3, 2022

Respectfully Submitted,

Jacob Shouse, #110444



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RECEIVED
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US POSTAGESM PITNEY BOWES



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